



Washington State Auditor's Office

November 10, 2015

Julian Tarver DOC #885530
WSP
1313 N 13th Ave.
Walla Walla, WA 98362

Dear Mr. Tarver:

We have completed our response to your public records request letter received on 11/5/2015, requesting the following:

Copies of all past Public Records Act court complaints that have been served on office.

We have attached all the responsive records to fulfill your request. We will now consider this request closed.

Sincerely,

A handwritten signature in cursive script that reads "Mary E. Leider".

Mary E. Leider, CPRO
Public Records Officer

SAO PRR #2460

Courtesy Next Hearing Reminder:

Date: 2011 DEC 23 81 5:05

Time: _____

Judge: _____

Washington State

Office of the Attorney General

Acknowledged Receipt, this 23rd day

of Dec, 2011, Time: 4:59P

in Olympia, Washington.

Signature: _____

Print Name: Rob Costello

Assistant Attorney General

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

ATTORNEY GENERAL
OF WASHINGTON

DEC 27 2011

GOVERNMENT COMPLIANCE
& ENFORCEMENT

Mike Hobbs,

Plaintiff,

v.

STATE OF WASHINGTON,
WASHINGTON STATE AUDITOR's
OFFICE, a Washington State
Agency,

Defendant.

No.

0 52720 2 11

SUMMONS

Public Records Case
RCW 42.56 (formerly RCW 42.17)

TO THE DEFENDANT
STATE OF WASHINGTON, WASHINGTON STATE AUDITOR's OFFICE:

A lawsuit has been instituted against you in the above entitled Court by the above named Plaintiff. The claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the Plaintiff within twenty (20) days after the service of this Summons, excluding the day of service, or within 60 days if this Summons was served outside the State of Washington, or within 60 days after the date of the first publication of this Summons, or a Default Judgment may be entered against you without notice. A Default Judgment is one where a Plaintiff is entitled to what is asked for because you have not responded. If you serve

SUMMONS

Christopher W. Bawn
ATTORNEY AT LAW

1700 Cooper Point Road SW #A3
Olympia, WA 98502-1109

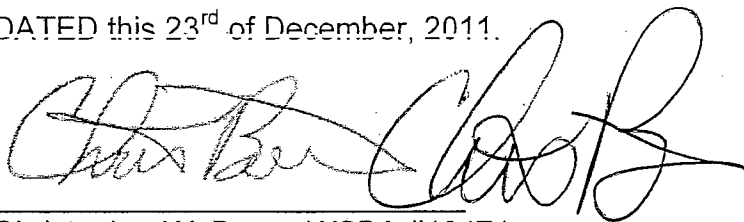
1
2 a Notice of Appearance on the undersigned attorney, you are entitled to notice before a
3 Default Judgment may be entered.

4 You may demand that the Plaintiff file this lawsuit with the Court. If you do so, the
5 demand must be in writing and must be served upon the Plaintiff. Within fourteen (14)
6 days after you serve the demand, the Plaintiff must file this lawsuit with the Court, or the
7 service on you of this Summons and Complaint will be void.
8

9 If you wish to seek the advice of an attorney in this matter, you should do so
10 promptly so that your written response, if any, may be served on time.

11 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of
12 the State of Washington.

13 DATED this 23rd of December, 2011.

14
15 
16

17 Christopher W. Bawn, WSBA #13471
18 Attorney for Plaintiff
19
20
21
22
23
24
25

Courtesy Next Hearing Reminder:
Date: _____
Time: _____
Judge: _____

Washington State
Office of the Attorney General
Acknowledged Receipt, this 23rd day
of Dec, 2011, Time: 4:59P
in Olympia, Washington.
Signature: [Signature]
Print Name: KAB COOPER
Assistant Attorney General

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

Mike Hobbs,
v. Plaintiff,

STATE OF WASHINGTON,
WASHINGTON STATE AUDITOR's
OFFICE, a Washington State
Agency,
Defendant.

No. 11-2-02725

COMPLAINT FOR VIOLATIONS OF
THE PUBLIC RECORDS ACT

Public Records Case
RCW 42.56 (formerly RCW 42.17)

ATTORNEY GENERAL
OF WASHINGTON

DEC 27 2011

GOVERNMENT COMPLIANCE
& ENFORCEMENT

Plaintiff alleges:

I PARTIES

1. The Plaintiff Mike Hobbs (HOBBS), during the times identified in this lawsuit, was a resident of Thurston County, Washington.

2. The Defendant STATE OF WASHINGTON, WASHINGTON STATE AUDITOR's OFFICE (SAO), is a state government agency principally located geographically in Thurston County, which is where the records at issue in this case are located in whole or part.

II VENUE AND JURISDICTION

1. Venue and jurisdiction is proper in Thurston County Superior Court.

IIIa. BACKGROUND

1
2 1. The mission statement of the State Auditor's Office claims that the people of
3 Washington deserve a State Auditor who will "independently" serve the citizens of
4 Washington by "promoting accountability, fiscal integrity and openness in state and
5 local government ... [and] strive to ensure the efficient and effective use of public
6 resources." (emphasis added).
7

8 2. According to SAO's work plan for March 2010 to June 2013, the State Auditor
9 is currently evaluating "more than 70 percent of the state operating budget" in order to
10 "provide actionable recommendations" so agencies' results will "actually improve."
11

12 3. This is the mandate, passed in 2005 by the citizens of Washington, which was
13 meant to free the State Auditor from the chains of other agencies' bureaucracy, by
14 blocking state agencies from treading upon the independence of the State Auditor,
15 which the citizens of Washington identified as a likely way to save billions of dollars in
16 state government waste and overspending:

17 "It is essential that state and local governments establish credibility with
18 the taxpayers by implementing long-overdue performance audits to ensure
19 accountability and guarantee that tax dollars are spent as cost-effectively
20 as possible. Are politicians spending our current tax revenues as cost-
21 effectively as possible? Voters don't know because politicians have
22 repeatedly blocked our state auditor from conducting independent,
23 comprehensive performance audits on state and local governments,
24 agencies, programs, and accounts. Currently, Washington is the only state
25 in the nation that prohibits the independently elected state auditor from
doing the job he or she was hired to do without explicit legislative
permission. This handicap is costing the taxpayers billions of dollars in
potential savings. Thankfully, this common sense initiative remedies this
egregious failure of politicians to enact this reform. It is absurd for
politicians to unilaterally impose tax increases or to seek voter approval for
tax increases without first learning if we're getting the biggest bang for the

1
2 buck from our current tax revenues. This measure requires the state
3 auditor to conduct independent, comprehensive performance audits on
4 state and local governments, agencies, programs, and accounts. This act
5 dedicates a portion of the state's existing sales and use tax (1/100th of 1%)
6 to fund these comprehensive performance audits. Similar performance
7 reviews in Texas have saved taxpayers there nine billion dollars out of
8 nineteen billion dollars in identified savings over the past decade. The
9 performance audits required by this common sense initiative will identify
10 solutions to our public policy problems, saving the taxpayers billions of
11 dollars. "

12 4. Just as the citizens mandated open government in RCW 42.56, Initiative 900
13 has placed a grave responsibility in the hands of the State Auditor, and "from the one
14 who has been entrusted with much, much more will be asked."

15 5. HOBBS is asking that the State Auditor step back from the abyss of elevating
16 the DSHS above the rights of citizens to open government, and to drop whatever
17 "agreement" it has with the DSHS to allow that agency to audit the State Auditor
18 before the public is allowed to see the work State Auditor is supposed to
19 independently perform and to openly disclose.

20 6. The goal of immediately commencing this lawsuit, rather than allowing the
21 claim to languish and possibly accumulate more violations and more damages, is to
22 rectify problems most promptly and efficiently.

23 7. Hopefully, the court and the SAO will recognize that this lawsuit is aimed at
24 improving disclosure and removing barriers to prompt, open and independent
25 disclosures by the SAO.

IIIb. FACTS and CLAIMS

1
2 1. Commencing with a request on November 28, 2011, HOBBS (references to the
3 Plaintiff include Plaintiff's actions through counsel) submitted an official public records
4 request to inspect SAO records.

5
6 2. The request was submitted to the SAO via e-mail to the SAO Public Records
7 email address and via a special form for submitting public records requests, appearing
8 on the SAO web site.

9 3. A true and correct copy of the request is attached as Exhibit 1.

10 4. The request contained some additional guidance, such as:

11 ***DUTY NOT TO DESTROY EXISTING RECORDS: Please advise all employees in***
12 ***possession of paper or electronic records that the request is to inspect the***
13 ***records as they exist as of the date of the request, not after they are shredded,***
14 ***modified, switched to other formats, highlighted, printed to paper with electronic***
copy discarded, removed, or otherwise made more difficult for the agency to
promptly recover and prepare for public inspection in their existing paper or
electronic form.

15 ***... If you have not trained your employees to hold onto records, consider asking***
16 ***your attorney or public records officer to include in the alert concerning the***
17 ***request that destruction of public records can result in fines and other adverse***
actions.

18 ***RECORDS as defined by RCW 42.56 are interpreted broadly. Records include but***
19 ***are not limited to files, folders, notes, correspondence, notices, meetings, logs,***
20 ***messages, interviews, cell phone and blackberry text messages and pin***
21 ***messages, deleted email files, emails, Outlook appointment emails and notes,***
22 ***room reservation notices, voice mails, litigation holds, other logs, other***
23 ***documents, other notes, confidentiality statements, recorded conversations,***
24 ***post-it notes, or other forms of records of an electronic or non-electronic nature).***

25 4. On December 2, 2011, the SAO public records officer sent an e-mail, indicating
that the request was called, "PRR #1513 - DSHS WB #10-005 - and that the "first
installment" of the request would be available for inspection after December 16, 2011.

5. A true and correct copy of the email is attached as Exhibit 2.

1
2 6. The SAO response contains a pre-condition, indicating that an unspecified
3 number of records that had already been reviewed (i.e. "some of the records") were
4 being withheld for an unspecified duration ("we are unable to anticipate at this time how
5 long") under an "agreement with DSHS wherein DSHS reviews our Office's redactions
6 of records." See Exhibit 2.
7

8 7. After waiting until the withholding period expired, HOBBS contacted the SAO on
9 the phone and in person to schedule an appointment to inspect the records on
10 December 20th and 21st, and as a courtesy because HOBBS could not be reached by
11 return phone call on the 21st, the SAO sent an e-mail, providing access to an electronic
12 copy of the first installment of records on its web site, accessible to HOBBS via "secure
13 links," with an in person appointment for December 27th or thereafter.
14

15 8. A true and correct copy of the e-mail is attached as Exhibit 3.

16 9. Hobbs downloaded the records, an exemption log entitled "Whistleblower
17 exemption codes" (Exhibit 3). a 351-page ".pdf" file called 10-005-redacted.pdf, and a
18 ".zip" file called "10-005 letter VersionHistory.zip" which contained a misleading
19 investigation closure letter addressed to the DSHS' agency head, Susan Dreyfus, and
20 to Governor Chris Gregoire and to Jacob White, Public Disclosure and Ethics
21 Administrator of the DSHS, and to Randy Hart, "Region 3 Regional Administrator" of the
22 DSHS.
23

24 10. The 351 page "pdf" contained over 100 black boxes, covering up small and large
25 chunks of the public records.

1
2 11. Some of the black boxes contain a red statute, either RCW 42.40.040(2) or RCW
3 13.50.100.

4 12. Some of the black boxes do not contain a statute, which may be due to the size
5 limitations of the black box, but there is no log identifying the reason for the redactions
6 on any of the pages that were disclosed.
7

8 13. SAO's exemption log and the black boxes violate RCW 42.56, in failing to
9 provide adequate information concerning the redactions.
10

11 14. SAO's "agreement" not to disclose records in response to a public records
12 request until the DSHS takes an unspecified period of time to review the redacted
13 records violates RCW 42.56.

14 15. SAO received the request, but failed to timely act upon the request by providing
15 a written response which properly disclosed the records, adequately cited lawful
16 exemptions, adequately identified the withheld records, or adequately explained the
17 reason for inconsistent withholding or redaction of some records and the disclosure of
18 others, inadequately provide an estimate of the date the disclosure of the records
19 requested could be completed.
20

21 16. This lawsuit was instituted without substantial delay trying to deal with the
22 bureaucracy intentionally created by the SOA and DSHS, because such ongoing
23 bureaucratic delays merely result in more public funds being spent on what should be
24 a simple public records request to answer.
25

1
2 17. Based on the initial non-compliance, it is likely that there may be additional
3 allegations that will need to be added to this complaint until all the misredacted and
4 misapplied records are properly accounted for to the public.

5 18. Any justification SAO may offer in defense of this complaint for the way it
6 handled the Plaintiff's public records requests, which exceeds its response to the
7 public records requestor, is evidence that its response to the public requestor was
8 deficient.
9

10 19. SAO had in its possession records which are not subject to complete
11 exemption or withholding which it allegedly redacted and which it admits it already
12 disclosed (or secreted from the public) by providing it to others, such as the DSHS,
13 while allowing the others to decide when the records will be disclosed, and what
14 additional information the others want to withhold from the public.
15

16 20. SAO violated RCW 42.56 by failing to respond to HOBBS' request by providing
17 records that SAO had available for disclosure on or before December 16, 2011, by
18 failing to estimate the time it will take SAO to conclude the request (and instead
19 interposing a vague reference to the unpredictable time the DSHS might want to sit on
20 some of the public records that were requested), and by failing to identify the number
21 of records involved.
22

23 21. SAO violated RCW 42.56 when it decided on its own to make HOBBS go
24 through an ambiguous installment scenario, wherein HOBBS is not notified of: 1) the
25 number of estimated installments, 2) the estimated number of records, 3) the

1
2 estimated date(s) the installments will be completed, 4) details concerning the
3 allegedly exempt matters; and 5) the extracurricular secondary process outside of
4 RCW 42.56.

5 22. SAO's non-responsiveness and partial-responsiveness to the request violates
6 the public records statute as well as the spirit and intent of public records law.

7 23. SAO has failed to timely estimate the number of records withheld while the
8 DSHS conducts its own investigation of the SAO's public records.

9 24. SAO has failed to explain what is redacted, and instead merely used broad
10 categories, requiring the requestor to guess what item within the category is removed
11 from the record.

12 25. Any efforts SAO offers for continuing to not disclose, and in not identifying the
13 withheld records that are apparently now sitting at the DSHS, and through any delays
14 in responding to the discovery requests and this lawsuit, instead of providing the
15 records, identifying the redactions, are untimely and constitute an ongoing intentional
16 action, which is a violation of the spirit and requirements of RCW 42.56.

17 26. There is no statutory basis for SAO to insist that the public wait in line while the
18 SAO conspires and colludes with its accomplices pursuant to some non-statutory
19 agreement to make sure the public only sees what the agencies collectively decide
20 after some unspecified delay that the public should see.
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1
2 27. RCW 42.46 provides no mechanism for HOBBS to compel the DSHS to
3 promptly disclose the records the SAO has declined to provide and declined to
4 estimate a date certain that the records will be disclosed.

5 28. The sanction should increase based upon evidence that the SAO has
6 interposed an unnecessary barrier to disclosure.
7

8 29. The SAO's intentional decision to involve multiple agencies' personnel in public
9 records disclosure constitutes a waste of public funds.

10 30. By its actions involving the Plaintiff HOBBS, SAO has unlawfully denied and
11 delayed public disclosure of records in its possession, citation to the appropriate
12 exemptions (if any) and description of the records that have been or will continue "to
13 be, or not to be" withheld as exempt for the indefinite future.
14

15 31. By continuing to deny any accounting of the records that are being denied for
16 the unspecified future, SAO is in a continuing violation, and damages continue to
17 accrue until compliance is complete and the damages are paid by SAO for non-
18 compliance.

19 32. Until SAO reverses its policy against responding to requestors, including
20 HOBBS, based upon a nebulous deal SAO has with other government officials,
21 damages continue to accrue until compliance is complete and the damages are paid
22 by the SAO for non-compliance.
23

24 33. It is the duty of the Thurston County Superior Court to liberally construe the
25 Public Records Act so as to permit disclosure of public records, and to preclude

1
2 agencies from interposing vague agreements that cannot be policed pursuant to RCW
3 42.56.

4 34. It is the duty of the Thurston County Superior Court to take into account that the
5 policy of RCW 42.56 (formerly RCW 42.17) et seq. that free and open examination of
6 public records is in the public interest, even though such examination may cause
7 inconvenience or embarrassment to public officials or others.

8 35. It is the duty of the Thurston County Superior Court to construe any of the
9 claims that HOBBS has made in this lawsuit in the broadest sense, and any of the
10 Defendants' claimed exemptions or excuses for non-compliance narrowly in order to
11 promote the public policy favoring open government.

12 36. The Defendant failed to comply with their obligations under the Public
13 Records Disclosure Act, RCW 42.56 (formerly RCW 42.17) et seq. and disclose public
14 records in response to the Plaintiff's requests.

15 37. The Defendants have engaged in unlawful delay and obstruction of the
16 disclosure of public records and the appropriate method of explaining exemptions that
17 Plaintiff is entitled to review, and violated RCW 42.56 (formerly RCW 42.17) et seq. by
18 failing to allow the Plaintiff to inspect or copy public records and by failing to properly
19 respond to a public record request within a reasonable time.

20 38. The Plaintiff is entitled to an immediate estimate and accounting of the public
21 records the Defendant is capable of identifying, redacting and disclosing, and an
22 estimate of a date certain that the disclosure request can be fulfilled.
23
24
25

1
2 39. As a direct result of defendants' unlawful conduct, the Plaintiff is entitled to any
3 and all relief provided by law.

4 40. HOBBS reserves the right to amend this complaint to include such further
5 violations as become evident upon Defendants' untimely efforts to provide responses
6 that DALILAH requested prior to the present.

7
8 41. HOBBS has an urgent need for prompt disclosure of the records that were
9 requested, and delays in disclosing the records will result in an ongoing gross waste of
10 public funds.

11 **IV. Prayer for Relief**

12 Wherefore the Plaintiff prays Defendants comply with the statutes, rules and judgment
13 of this court as follows: (By this reference the allegations set forth in sections I, II, III,
14 and IV of this complaint are incorporated herein)

15
16 1. That the Defendants appear and, without causing Plaintiff to suffer further delay,
17 fees and costs, answer the Summons, Complaint, and subsequent proceedings in
18 complete compliance with RCW 42.56/

19 2. That the Defendants immediately produce the requested public records and
20 portions thereof which are subject to public disclosure, by providing the Plaintiff full
21 and free inspection of the records along with descriptions of all the claimed redactions
22 with appropriately cited exemptions as required by law;

23
24 3. That the Defendants immediately produce the requested public records and
25 portions thereof which Defendants claim are not subject to public disclosure, by

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2 providing the Court with unredacted records along with any claimed redactions or cited
3 exemptions as required by law for judicial inspection and in-camera review to
4 determine whether the records contain public information and whether any claimed
5 exempt material is not truly exempt;

6
7 4. That the Defendants identify in a log all the records or portions of records which
8 existed at the time of the Plaintiff's initial requests, but which may have subsequently
9 been gutted, erased, discarded, archived, sent to the DSHS, and otherwise not
10 disclosed or made more difficult to retrieve;

11 5. That judgment be granted to the Plaintiff against Defendants.

12 6. That judgment be granted awarding Plaintiff statutory penalties available under
13 RCW 42.56;

14
15 7. That judgment be granted awarding Plaintiff's reasonable attorney fees and costs,
16 including but not limited to those under RCW 42.56;

17 8. That Plaintiff be awarded prejudgment interest at the maximum lawful rate from the
18 date of non-compliance until satisfaction of judgment;

19 9. That Plaintiff receive such other and further relief as is equitable and just.

20 DATED this 23rd of December, 2011.

21
22 

23
24 Christopher W. Bawn, WSBA #13471
25 Attorney for Plaintiff

Christopher W. Bawn

From: Christopher W. Bawn [cwbawn@earthlink.net]
Sent: Monday, November 28, 2011 3:50 PM
To: 'State Auditor'
Subject: Public Records Request - RCW 42.56

JournalPM: J

Sent to Washington State Auditor, public records officer

- E-mail: publicrecords@sao.wa.gov
- Phone: (360) 725-5617
- Fax: (360) 586-3105
- Mailing Address:

State Auditor's Office
Mary Leider, Public Records Officer
P.O. Box 40031
Sunset Building
3200 Capitol Blvd.

I am an attorney representing a client who wishes to promptly inspect the disclosable portions of all records for the period from September 1, 2010 through today's date that involve investigations, audits, whistleblower complaints involving the DSHS, and all underlying data and files associated with all communications by any employee, CPA, investigator, or agent of the Washington State Auditor, from or to the Secretary of the DSHS for the period from November 1, 2011 to today's date. Specific records: Because the State Auditor deals with a lot of DSHS issues, the request is for all records related to any whistleblower complaint or other investigation involving SSI Dedicated Accounts, although the words "SSI Dedicated Accounts" may not appear in the record. Names that may appear in the records may include Mike Hobbs, Denise Revels Robinson, Richard E Pannekuk, Dan Ashby, Cindy Beckman, Becky Schuffenhauer, Janet Sundberg, Karen McKown, or others. Please preserve ELECTRONIC and NON-ELECTRONIC RECORDS: Please note, where any records existed in electronic form on the date of this request, the request includes a request to inspect the actual electronic records, including all backup copies and prior versions, and including all metadata contained therein, in their electronic form. Thus, voice mails contained in ".wav" or ".mp3" or other electronic audio formats, or notes contained in Outlook ".msg" or ".pst" or other custom formats, or in Word or Excel or PowerPoint ".doc" or ".doc" or ".xls" or ".ppt" or other custom formats, should be retained and prepared for inspection in that form, where possible, without the metadata destroyed. DUTY NOT TO DESTROY EXISTING RECORDS: Please advise all employees in possession of paper or electronic records that the request is to inspect the records as they exist as of the date of the request, not after they are shredded, modified, switched to other formats, highlighted, printed to paper with electronic copy discarded, removed, or otherwise made more difficult for the agency to promptly recover and prepare for public inspection in their existing paper or electronic form. DISCLOSE ALL RECORDS IN WHOLE OR PART: Where one record contains an attachment of another record, the request includes both the record and the attachment and the metadata of both. Please be advised, to the untrained eye, a record may appear to be identical simply because it has the same "file name" or "title" - but it may have been revised numerous times and backed up in electronic form each day, with different information in the metadata (including file size, CRC, and other information that is sought for inspection). This request includes all revisions. Finally, where a record contains non-exempt information that is related to the request, but also contains non-exempt information the agency believes is not related to the request, please do not remove the information that is not related to the request. If you have not trained your employees to hold onto records, consider asking your attorney or public records officer to include in the alert concerning the request that destruction of public records can result in fines and other adverse actions. RECORDS as defined by RCW 42.56 are interpreted broadly. Records include but are not limited to files, folders, notes, correspondence, notices, meetings, logs, messages, interviews, cell phone and blackberry text messages and pin messages, "deleted email files", emails, Outlook

appointment emails and notes, room reservation notices, voice mails, litigation holds, other logs, other documents, other notes, confidentiality statements, recorded conversations, post-it notes, or other forms of records of an electronic or non-electronic nature).

Please feel free to reply to this electronic request for the records via email to cwbawn@justwashington.com or cwbawn@earthlink.net

Thank you.

Christopher W. Bawn
1700 Cooper Point Road SW, Building A-3
Olympia, Washington 98502
360-357-8907

(for directions, consider pasting <http://goo.gl/AooB> into your web browser)

Exhibit 1² p. 2

Christopher W. Bawn

From: Mary Leider [leiderm@sao.wa.gov]
Sent: Friday, December 02, 2011 10:14 AM
To: cwbawn@justwashington.com
Subject: SAO Response to PRR #1513 - DSHS WB #10-005

December 2, 2011

Christopher Bawn
1700 Cooper Point Road SW, #A-3
Olympia, WA 98501

Dear Mr. Bawn,

We have received your public records request via email and on our website, as follows:

I am an attorney representing a client who wishes to promptly inspect the disclosable portions of all records for the period from September 1, 2010 through todays date that involve investigations, audits, whistleblower complaints involving the DSHS, and all underlying data and files associated with all communications by any employee, CPA, investigator, or agent of the Washington State Auditor, from or to the Secretary of the DSHS for the period from November 1, 2011 to todays date. Specific records: Because the State Auditor deals with a lot of DSHS issues, the request is for all records related to any whistleblower complaint or other investigation involving SSI Dedicated Accounts, although the words SSI Dedicated Accounts may not appear in the record. Names that may appear in the records may include Mike Hobbs, Denise Revels Robinson, Richard E Pannkuk, Dan Ashby, Cindy Beckman, Becky Schuffenhauser, Janet Sundberg, Karen McKown, or others.

Please preserve ELECTRONIC and NON-ELECTRONIC RECORDS: Please note, where any records existed in electronic form on the date of this request, the request includes a request to inspect the actual electronic records, including all backup copies and prior versions, and including all metadata contained therein, in their electronic form. Thus, voice mails contained in .wav or .mp3 or other electronic audio formats, or notes contained in Outlook .msg or .pst or other custom formats, or in Word or Excel or PowerPoint .doc or .docx or .xls or .ppt or other custom formats, should be retained and prepared for inspection in that form, where possible, without the metadata destroyed.

DUTY NOT TO DESTROY EXISTING RECORDS: Please advise all employees in possession of paper or electronic records that the request is to inspect the records as they exist as of the date of the request, not after they are shredded, modified, switched to other formats, highlighted, printed to paper with electronic copy discarded, removed, or otherwise made more difficult for the agency to promptly recover and prepare for public inspection in their existing paper or electronic form.

DISCLOSE ALL RECORDS IN WHOLE OR PART: Where one record contains an attachment of another record, the request includes both the record and the attachment and the metadata of both. Please be advised, to the untrained eye, a record may appear

1
Exhibit 2 a1

to be identical simply because it has the same file name or title - but it may have been revised numerous times and backed up in electronic form each day, with different information in the metadata (including file size, CRC, and other information that is sought for inspection). This request includes all revisions. Finally, where a record contains non-exempt information that is related to the request, but also contains non-exempt information the agency believes is not related to the request, please do not remove the information that is not related to the request. If you have not trained your employees to hold onto records, consider asking your attorney or public records officer to include in the alert concerning the request that destruction of public records can result in fines and other adverse actions.

RECORDS as defined by RCW 42.56 are interpreted broadly. Records include but are not limited to files, folders, notes, correspondence, notices, meetings, logs, messages, interviews, cell phone and blackberry text messages and pin messages, deleted email files, emails, Outlook appointment emails and notes, room reservation notices, voice mails, litigation holds, other logs, other documents, other notes, confidentiality statements, recorded conversations, post-it notes, or other forms of records of an electronic or non-electronic nature).

As we understand the subject matter of your request, you are requesting all records related to investigations of DSHS that pertain specifically to SSI Dedicated Accounts. The time frame is September 1, 2010 to the present. If our understanding of your request is incorrect, please let us know.

We estimate our first installment of responsive records will be available for inspection anytime after December 16, 2011. Please contact me at (360) 725-5617 or publicrecords@sao.wa.gov, to make an appointment during business hours Monday – Friday, to inspect the first installment. If we are unable to meet that date, we will contact you and let you know when to expect the first installment will be ready. You also have the option of receiving these records on CD at no cost. If you prefer the documents on CD rather than inspecting them, please let me know.

* Some of the records we reviewed during the investigation include DSHS client records. Our office has an agreement with DSHS wherein DSHS reviews our Office's redactions of records we received from DSHS to ensure that all necessary redactions have been made. We are unable anticipate at this time how long DSHS will need to complete this task; therefore we cannot give an estimated date for delivery of this installment.

Please let us know if you have any further questions.

Sincerely,

Mary Leider

Public Records Officer
State Auditor's Office
Sunset Bldg. - PO Box 40031
Olympia, WA 98504
Work: (360) 725-5617

Exhibit 2 p 2

Christopher W. Bawn

From: leiderm@sao.wa.gov
Sent: Wednesday, December 21, 2011 11:21 AM
To: cwbawn@earthlink.net; cwbawn@justwashington.com
Subject: SAO Response to PRR#1513 - WB 10-005 - DSHS

You have received 3 files.

Use the secure links below to download.

December 21, 2011

Dear Mr. Bawn,

I was unable to get a hold of you by phone or email today, so as a courtesy I am sending you the 1st installment of records in response to your request with SAO pertaining to DSHS Whistleblower Investigation #10-005. If you still wish to inspect these electronic records in person, please contact me for an appointment December 27th or later. Next week, I will send you an estimate of when we will have the next installment ready.

Please let me know if you have any questions.

Sincerely,

Mary Leider, Public Records Officer
State Auditor's Office

Download Files

Available until: 05 January 2012

Download File: Whistleblower exemption codes.docx
13.88 KB

Download File: 10-005_redacted.pdf
14,845.93 KB

Download File: 10-005 ltr VersionHistory.zip
12,346.49 KB

You have received file link(s) within this e-mail sent via the State Auditor's Office Secure File Transfer service. To retrieve the file(s), please click on the link(s) above.

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Exhibit 3